



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 5**  
**77 WEST JACKSON BOULEVARD**  
**CHICAGO, IL 60604-3590**

**VIA ELECTRONIC MAIL**  
**DELIVERY RECEIPT REQUESTED**

Jacob Hummel, Chief Executive Officer  
Full Tilt Performance, LLC  
[Jacob@fulltiltperformance.com](mailto:Jacob@fulltiltperformance.com)

Re: Finding of Violation for Clean Air Act Violations  
Full Tilt Performance, LLC, Jackson, Minnesota

Dear Jacob Hummel:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Full Tilt Performance, LLC ("Full Tilt Performance" or "you") for violating Sections 203(a)(3)(A) and (B) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522(a)(3)(A) and (B). As summarized in the attached FOV, EPA has determined that Full Tilt Performance has manufactured, sold, and/or offered to sell parts or components that bypass, defeat, or render inoperative elements of design of those engines that were installed by the original equipment manufacturer in order to comply with CAA emission standards.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the FOV prior to the conference date.

Please plan for your technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Josh Hufferd. You may contact him at [hufferd.joshua@epa.gov](mailto:hufferd.joshua@epa.gov) to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

Nathan Frank  
Supervisor, Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure: SBREFA fact sheet

cc: Cory Boeck, Manager  
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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

Full Tilt Performance, LLC  
Jackson, Minnesota

Proceedings Pursuant to  
The Clean Air Act,  
42 U.S.C. §§ 7521-7554

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**FINDING OF VIOLATION**

**EPA-5-22-MOB-03**

**FINDING OF VIOLATION**

The U.S. Environmental Protection Agency (EPA) is issuing this Finding of Violation to Full Tilt Performance, LLC (“Full Tilt Performance” or “you”) for violating Sections 203(a)(3)(A) and (B) of the Clean Air Act (CAA), 42 U.S.C. § 7522(a)(3)(A) and (B).

**Statutory and Regulatory Background**

1. Congress’s purpose in enacting the CAA included “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population,” and “to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution.” 42 U.S.C. § 7401(b)(1) – (2).
2. In enacting the CAA, Congress found, in part, that “the increasing use of motor vehicles...has resulted in mounting dangers to the public health and welfare.” 42 U.S.C. § 7401(a)(2). Thus, Congress enacted Title II of the CAA, 42 U.S.C. § 7521 *et seq.*, to protect public health and the environment by reducing emissions of nitrogen oxides (NO<sub>x</sub>), particulate matter (PM), and other pollutants from mobile sources of air pollution, including “motor vehicles.”
3. Section 216(2) of the CAA defines “motor vehicle” as “any self-propelled vehicle designed for transporting persons or property on a street or highway.” 42 U.S.C. § 7550(2). *See also* 40 C.F.R. § 85.1703 (further defining “motor vehicle”).
4. Pursuant to Section 202 of the CAA, 42 U.S.C. § 7521, EPA promulgated emission standards for PM, NO<sub>x</sub>, and other pollutants applicable to motor vehicles and motor vehicle engines, including diesel engine vehicles. *See generally* 40 C.F.R. Part 86.

5. Diesel engine manufacturers employ many devices and elements of design to meet applicable emission standards in 40 C.F.R. Part 86.<sup>1</sup> “Element of design” is defined as “any control system (i.e., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine.” 40 C.F.R. § 86.094-2.<sup>2</sup> *See also* 40 C.F.R. § 86.1803-01.
6. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a manufacturer of motor vehicles or motor vehicle engines from selling a new motor vehicle or motor vehicle engine in the United States unless the motor vehicle or motor vehicle engine is covered by a certificate of conformity (COC). EPA issues COCs to motor vehicle and motor vehicle engine manufacturers under Section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of motor vehicles and motor vehicle engines conform to applicable EPA requirements governing motor vehicle emissions. The COC will include, among other things, a description of the diesel engines, their emission control systems, all auxiliary emission control devices and the engine parameters monitored.
7. Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), makes it unlawful for “any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter [Title II of the CAA], prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser.”
8. Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), makes it unlawful for “any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter [Title II of the CAA], and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.”

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<sup>1</sup> To meet the emission standards in 40 C.F.R. Part 86 and qualify for a certificate of conformity, diesel engine manufacturers may utilize control devices or elements of design such as Exhaust Gas Recirculation (EGR) and throttle valve assembly, Clean Gas Induction (CGI), Crankcase Ventilation (CV), Diesel Oxidation Catalyst (DOC), Diesel Particulate Filter (DPF), and/or Selective Catalytic Reduction (SCR) systems. Diesel engine vehicle manufacturers may also employ engine fueling strategies (such as retarded fuel injection timing) as a primary element of design to limit NO<sub>x</sub> emissions. *See* 59 Fed. Reg. 23,264 at 23,418 (May 5, 1994) (“[I]njection timing has a very significant impact on NO<sub>x</sub> emission rates, with advanced timing settings being associated with higher NO<sub>x</sub>...”). Modern diesel engine vehicles are equipped with electronic control modules (ECMs). ECMs continuously monitor engine and other operating parameters and control the emission control devices and elements of design, such as the EGR, CGI, CV, DOC, DPF, and SCR systems, in addition to the engine fueling strategy.

<sup>2</sup> Pursuant to Section 202(m) of the CAA, 42 U.S.C. § 7521(m), EPA promulgated regulations for motor vehicles manufactured after 2007 requiring diesel engine motor vehicles to have numerous devices or elements of design that working together can detect problems with the emission-related systems of the vehicle, alert drivers to these problems, and store electronically-generated malfunction information. *See* 40 C.F.R. §§ 86.005-17, 86.007-17, 86.1806-05. These devices or elements of design are referred to as “onboard diagnostic systems” (OBD Systems).

9. The CAA does not exempt “off-road use only” or “competition only” motor vehicles or motor vehicle engines. The definitions for motor vehicle at Section 216(2) of the CAA, 42 U.S.C. § 7550(2) and 40 C.F.R. § 85.1703 make no exemption for motor vehicles or motor vehicle engines used for competition.<sup>3</sup> In addition, these definitions are based on vehicle attributes (*e.g.*, ability to travel over 25 miles per hour, lack of features that render street use unsafe) and make no exemption for vehicles based on their use.
10. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” to include individuals, corporations, partnerships, and associations.

### **Background**

11. Full Tilt Performance is located at 2041 Highway 71 N, Jackson, Minnesota, 56143 (Facility).
12. Full Tilt Performance manufactures and/or sells aftermarket parts for use with diesel-powered motor vehicles.
13. On July 13, 2018, EPA issued a request for information to Full Tilt Performance pursuant to Section 208 of the CAA, 42 U.S.C. § 7542 (Request). The Request sought information related to Full Tilt Performance’s manufacture, purchase, and/or sale of parts and components and services which bypass, defeat, or render inoperative any emission control component, element of design, or emissions related part or component for the period from June 1, 2015, to the date of the Request.<sup>4</sup>
14. Between September 18, 2018, and September 22, 2020, EPA received Full Tilt Performance’s responses to EPA’s Request. The response included spreadsheets and QuickBooks data for parts and components (Products) manufactured and/or sold by Full Tilt Performance between January 1, 2016, and June 30, 2018.
15. The records provided by Full Tilt Performance indicate that these Products included tunes, tuners, EGR and CGI block plates, DPF doser valve plugs, and exhaust manifolds that were either manufactured by Full Tilt Performance or were sold to Full Tilt Performance by Diesel Spec, Inc. and Derive Power, LLC, among others. Full Tilt Performance then sold these Products to customers for use on motor vehicles equipped with Caterpillar, Cummins, Paccar, Navistar International, and Detroit Diesel certified diesel engines.

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<sup>3</sup> In contrast, the CAA exempts from the definition of “nonroad vehicle” and “nonroad engine” those vehicles and engines used solely for competition. Section 216(10)-(11) of the CAA; 42 U.S.C. § 7550(10)-(11). EPA has implemented regulations describing how to exempt from CAA requirements nonroad vehicles and engines used solely for competition. 40 C.F.R. § 1068.235. These regulations explicitly do not apply to motor vehicles and motor vehicle engines. 40 C.F.R. § 85.1701(a)(1).

<sup>4</sup> In emails sent between August 2 and August 10, 2018, Full Tilt Performance and EPA agreed to limit the temporal scope of the Request to the period between January 1, 2016 and June 30, 2018.

## Violations

16. Full Tilt Performance is a corporation, and is a “person,” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
17. From at least April 1, 2017, to June 29, 2018, Full Tilt Performance manufactured, sold, and/or offered for sale at least 2,791 Products consisting of aftermarket automotive parts or components that bypass, defeat, or render inoperative air pollution emission control systems installed on or in motor vehicles and motor vehicle engines in compliance with the Mobile Source Provisions of the CAA (Defeat Devices).
18. The Defeat Devices that Full Tilt Performance manufactured, sold, and/or offered for sale included at least the following Products:
  - a. EGR and CGI block plates and exhaust manifolds that bypass, defeat, or render inoperative the EGR or CGI system and/or can only operate with the EGR or CGI system removed, resulting in disabling of the EGR or CGI system (EGR/CGI Delete Hardware);
  - b. Doser valve plugs that defeat the DPF system (Aftertreatment Delete Hardware); and
  - c. Aftermarket tunes or tuners where a principal effect of the tune or tuner was to bypass, defeat, render inoperative, or allow for the removal of one or more emission control devices or elements of design installed on or in a motor vehicle or motor vehicle engine, such as the EGR, CGI, DOC, DPF, SCR, and/or OBD systems or engine fueling strategy, without illuminating a malfunction indicator lamp (MIL) in the vehicle’s OBD system, prompting any diagnostic trouble code (DTC) in the OBD system, or causing any engine derating due to the removal or disabling of the emission control device (Defeat Tunes).
19. The parts and components manufactured, sold, and/or offered for sale by Full Tilt Performance were intended for “motor vehicles” as defined by Section 216(2) of the CAA, 42 U.S.C. § 7550(2) and were designed for use on makes and models of diesel-engine motor vehicles for which their respective manufacturers have obtained COCs establishing compliance with CAA emissions standards.
20. Full Tilt Performance knew or should have known that these parts and/or components were being used to bypass, defeat, or render inoperative the emission controls on motor vehicles and/or motor vehicle engines certified under the CAA.
21. From at least April 1, 2017 to June 29, 2018, Full Tilt Performance violated Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B) by manufacturing, selling, and/or offering to sell EGR/CGI and Aftertreatment Delete Hardware and ECM Defeat Tunes, intended for use with, or as part of, a motor vehicle or motor vehicle engine, where a principal effect of each Defeat Device is to bypass, defeat or render inoperative elements of design that control emissions, such as the EGR/CGI, DOC, DPF, SCR, OBD systems and/or other elements of design on motor vehicles and motor vehicle engines that were in

compliance with Title II of the CAA. Full Tilt Performance knew or should have known that such part or component was being offered for sale or installed for such use or put to such use.

### **Environmental Impact of Violations**

22. These violations may result in excess emissions of PM, NO<sub>x</sub>, hydrocarbons, and other air pollutants and contribute to increased ground level ozone concentrations. PM, especially fine particulates containing microscopic solids or liquid droplets, can get deep into the lungs and cause serious health problems, including decreased lung function; chronic bronchitis; and aggravated asthma. Additionally, current scientific evidence links short-term NO<sub>x</sub> exposures, ranging from 30 minutes to 24 hours, with adverse respiratory effects including airway inflammation in healthy people and increased respiratory symptoms in people with asthma. Exposure to ground-level ozone can also reduce lung function and inflame lung tissue; repeated exposure may permanently scar lung tissue.

### **Enforcement Authority**

23. EPA may bring an enforcement action for these violations under its administrative authority or by referring this matter to the United States Department of Justice with a recommendation that a civil complaint be filed in federal district court. Any person who violates Section 203(a) of the CAA, 42 U.S.C. § 7522(a), is subject to an injunction under Section 204 of the CAA, 42 U.S.C. § 7523. Any person who violates Section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3), is subject to a civil penalty of up to \$5,179 for each violation. Section 205(a) of the CAA, 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4, Table 1.

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Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division